

**LOWELL CITY COUNCIL MINUTES  
REGULAR COUNCIL MEETING  
& PUBLIC HEARING  
July 24, 2007 ~ 7:00 P.M.**

**A PUBLIC HEARING WAS HELD ON ADOPTION OF AN ORDINANCE APPROVING AN AMENDMENT TO THE PROJECT PLAN FOR REDEVELOPMENT DISTRICT NO. 1 OF THE CITY OF LOWELL, ARKANSAS. SAID ORDINANCE IS ON THE COUNCIL'S AGENDA AS NEW BUSINESS ITEM a. PUBLIC FORUM BEGAN AT 7:01 P.M. AND ENDED IMMEDIATELY AS THERE WERE NO COMMENTS FROM THE PUBLIC.**

1. **CALL TO ORDER:** The Regular Meeting of the Lowell City Council was called to order at 7:02 p.m. by Mayor Perry Long at the Lowell City Court Building.
2. **PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by the Mayor.
3. **INVOCATION:** The Invocation was offered by Johnny Harp, Pastor, Lakeview Baptist Church, Cave Springs, Chairman of the Board of Directors of United Way of Northwest Arkansas, and a Volunteer with the Lowell Recreation Association.
4. **ROLL CALL:** Mayor Long asked for a roll call. City Clerk Janette Lasater made a verbal roll call. Council Members present were: Kamela LeMons, Jerry Foley, Darrin Brock, Keith Williams, Carol Harmon, Marty Lathem and Paula Allred. Councilman Eric Schein was seated late. There was a quorum. City Attorney Tom Kieklak was also present. A roster of all others in attendance is filed with these minutes.
5. **CONSENT AGENDA:**

**APPROVAL OF MINUTES REGULAR MEETING: July 10, 2007  
FINANCIAL STATEMENT FOR JUNE 2007**

Councilwoman Carol Harmon requested that future financial statements include and itemization of the cell phone bills for each employee as well as all employee salaries.

**⊗ There was a motion to approve the Consent Agenda.**

**Motion:** Councilman Keith Williams

**Second:** Councilman Jerry Foley

**Vote Aye:** Williams, Lathem, Allred, Harmon, LeMons, Brock, Foley, and Schein.

**Vote Nay:** None.

**The motion carried and the Consent Agenda was approved.**

6. **PUBLIC FORUM:** Opened at 7:07 p.m. and closed at 7:12 p.m. The Mayor read a letter from "the Mighty Samson," a small dog owned by Curtis Waggoner which was

rescued by Charlene Beard. The Mayor and Curtis Waggoner presented Ms. Beard with a plaque and also a card from the Chamber of Commerce. Guy Schumaker reminded everyone of his challenge to the council for a \$100 matching donation to the city building fund. Johnny Harp, Pastor of Lakeview Baptist Church, Cave Springs, requested the council consider selling the city bus to the church.

The Mayor requested that the Agenda be amended to allow New Business items a and b to be considered immediately. There were no objections.

☒ Councilwoman Carol Harmon moved that the Agenda be amended by having the council consider the request by Johnny Harp for sale of the bus to the church. The motion failed for lack of a second.

**7. NEW BUSINESS: (TAKEN OUT OF ORDER FROM THE AGENDA)**

**a. AN ORDINANCE AMENDING THE PROJECT PLAN FOR REDEVELOPMENT DISTRICT NO. 1 OF THE CITY OF LOWELL, ARKANSAS: AND PRESCRIBING OTHER MATTERS RELATING THERETO**

The Mayor said that this moves the Dixieland project into the TIF district.

☒ **There was a motion to suspend the rules, place on third and final reading by title only.**

**Motion:** Councilman Keith Williams

**Second:** Councilman Darrin Brock

**Vote Aye:** Schein, Harmon, Lathem, Williams, Allred, Brock, LeMons, and Foley

**Vote Nay:** None.

**The motion carried and the ordinance was read by title only by Mayor Long.**

☒ **There was a motion to approve the ordinance as read.**

**Motion:** Councilman Darrin Brock

**Second:** Councilwoman Marty Lathem

**Vote Aye:** Brock, Foley, Schein, Williams, LeMons, Allred, Harmon, and Lathem.

**Vote Nay:** None.

**The motion carried, the Ordinance was approved and assigned Ordinance No. 794.**

**b. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY'S [\$2,790,000] TAX INCREMENT IMPROVEMENT BONDS (REDEVELOPMENT DISTRICT NO. 1 PROJECT), SERIES 2007, FOR THE PURPOSE OF FINANCING CERTAIN IMPROVEMENTS WITHIN THE DISTRICT; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE BONDS WILL BE ISSUED AND SECURED; [AUTHORIZING THE EXECUTION AND DELIVERY OF A REIMBURSEMENT AGREEMENT IN CONNECTION WITH A**

**LETTER OF CREDIT OBTAINED TO SECURE THE BONDS;]  
AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL  
STATEMENT PURSUANT TO WHICH THE BONDS WILL BE  
OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A  
BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF  
THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF  
A CONTINUING DISCLOSURE AGREEMENT; PRESCRIBING  
OTHER MATTERS RELATING THERETO; AND DECLARING AN  
EMERGENCY**

Michael Lindsey of Morgan Keegan explained the bond offering.

**⊗ There was a motion to suspend the rules, place on third and final reading by title only.**

**Motion:** Councilman Darrin Brock

**Second:** Councilman Eric Schein

**Vote Aye:** Williams, Harmon, Allred, Foley, Brock, Schein, LeMons, and Lathem.

**Vote Nay:** None.

**The motion carried and the ordinance was read by title only by Mayor Long.**

**⊗ There was a motion to approve the ordinance as read.**

**Motion:** Councilman Eric Schein

**Second:** Councilman Jerry Foley

**Vote Aye:** Harmon, LeMons, Allred, Brock, Lathem, Foley, Williams, and Schein.

**Vote Nay:** None.

**The motion carried, the Ordinance was approved and assigned Ordinance No. 795.**

**⊗ There was a motion to enact the emergency clause for this ordinance.**

**Motion:** Councilman Keith Williams

**Second:** Councilman Eric Schein

**Vote Aye:** Lathem, Brock, Foley, Allred, Williams, Harmon, Schein, and LeMons.

**Vote Nay:** None.

**The motion carried and the emergency clause was enacted.**

**The Mayor called for a short break at 7:25 pm so the documents could be executed and the meeting reconvened at 7:35 pm.**

**8. COMMITTEE REPORTS:**

**PARK, RECREATION & SPECIAL EVENTS COMMITTEE:** Shawn Ingram reported on the status of Ward Nail Park. The equipment will be turned in by August 1<sup>st</sup>. They are about 90% complete on the projection to this point. Restroom and concession stand buildings are out for bid and we should be hearing back from that next week. The BMX group is waiting for their non-profit number to be returned to them so they can begin building the track. The soccer field is complete and seeding and mulching will be done tomorrow. The pond expansion will be complete by Friday.

They will begin filling that and see if the spring will keep up the fill rate. If not, there is money in the budget to drill a well and for a pump as an alternative water source. The parking lot pad should be finished by Tuesday of next week. They will be putting the asphalt out to bid. Two Eagle Scouts had projects: Matt Fruhoff had a butterfly garden and Zach Watts made martin and bat houses. The playground will be installed the first week of September.

**STREETS & SIDEWALKS:** The Mayor reported there was a meeting of both the Streets & Sidewalks and Utilities Committees. They reached a conclusion on the proposed five-year capital plan, a copy of which was provided to the council.

**UTILITIES COMMITTEE:** See above Streets & Sidewalks report.

**ORDINANCE COMMITTEE:** Councilman Keith Williams reported that the committee met last week. They reviewed the original ordinance to regulate the sale of domestic animals and finalized that. They also had the city attorney prepare an additional ordinance prohibiting the sale of animals. One of the two ordinances will be discussed during tonight's meeting. They also had prepared an ordinance prescribing the powers and duties of the city clerk/treasurer. That is also on tonight's agenda. Councilwoman Carol Harmon asked what has happened to the I-540 sign ordinance. Planning Director Michael Solomon reported that they are not yet ready to present the ordinance to the council. They are still working on the boundaries. Hopefully, it will be presented at the next meeting.

**PERSONNEL COMMITTEE:** No report.

**FINANCE COMMITTEE:** No report.

## **9. OLD BUSINESS:**

### **a. AN ORDINANCE PROHIBITING THE SALE OF ANIMALS FROM CERTAIN PROPERTY WITHIN THE CITY OF LOWELL**

Terry Sayre of 207 South Melody, Lowell, thanked the committee for all the hard work they have done in preparing these ordinances. He pointed out that regulating the sales will cost the City a lot more than a complete ban and he requested the council approve the ordinance prohibiting sales.

Guy Schumaker of 315 Center Drive, Lowell, stated they should read the ordinance very carefully. He asked the council if they want dog sales next door to them. Dog sales should be prohibited unless from a retail establishment. Animals should not be sold in the City of Lowell unless from a proper retail establishment with proper licensing, tax identification and insurance.

Barbara Cossack, 8452 LaRue Road, Rogers, stated it is just wrong to sell a live animal without doing the proper screening of the buyers, without the buyers being able to see where these dogs are raised, to find out if they have health certificates for whatever genetic--there are no genetically perfect animals. They should be able to get papers

and ask the questions and selling them on a street corner you cannot find out where these dogs came from, what the grandparents have carried, how careful the breeders have been. It's just wrong.

Tommy Wood of 816 Sarah, Lowell, and 717 Lincoln Hill Circle, Van Buren, previously at 219 Bluff, Lowell, spoke in favor of the ordinance regulating sales of domestic animals. There is no difference in getting puppies or watermelons from the side of the road. Puppies sold from a pet shop are a small minority of the puppies sold today. He has sold puppies in Lowell with the city's blessing for quite some time. Mr. Wood asked the Code Compliance official Billy Hensley about the puppy he purchased from him a couple of years ago. Mr. Hensley answered his questions. Mr. Wood stated he does nothing to encourage people to buy puppies on impulse. He requested the council to consider the ordinance regulating sales instead of prohibiting the sale. He pointed out that cars, vegetables and fruit, t-shirts are all sold by the side of the road.

By request of Councilman Keith, the council moved to Old Business item b for consideration. There were no questions or comments so they moved back to Old Business item a. Councilwoman Paula Allred asked for clarification of the proposed ordinance, that it applied only to commercial property, not residential. It was clarified that if they are conducting a business from their home, they will be required to have appropriate licensing. City Attorney Tom Kieklak pointed out that although it is called a prohibition it is really a prohibition from certain areas; a prohibition from selling them outside. The choice is whether to allow sales outside or regulate sales outside. Councilwoman Carol Harmon stated that the prohibition ordinance provides that sales would have to be conducted from "four walls and a roof."

**⊗ There was a motion to suspend the rules, place on third and final reading by title only.**

**Motion:** Councilwoman Carol Harmon

Councilman Keith Williams suggested the ordinance be placed on first reading to allow more public comments.

**The motion failed due to lack of a second.**

**⊗ There was a motion to place on first reading.**

**Motion:** Councilman Eric Schein

**Second:** Councilman Kamela LeMons

**Vote Aye:** Harmon, Allred, Schein, LeMons, Williams, Lathem, and Brock.

**Vote Nay:** Foley.

**The motion carried and the ordinance was read in its entirety by City Attorney Tom Kieklak.**

**The Mayor called for a short break at 8:02 pm and the meeting reconvened at 8:22 pm.**

**b. AN ORDINANCE TO REGULATE THE SALE OF DOMESTIC ANIMALS WITHIN THE CITY OF LOWELL AND DECLARING AN EMERGENCY**

**⊗ There was a motion to table this ordinance.**

**Motion:** Councilman Darrin Brock

**Second:** Councilman Paula Allred

**Vote Aye:** Allred, Harmon, Williams, LeMons, Schein, Brock, and Lathem.

**Vote Nay:** Foley.

**The motion carried and the ordinance was tabled.**

**10. The council returned to NEW BUSINESS item c.**

**c. AN ORDINANCE AMENDING THE CITY OF LOWELL CODE OF ORDINANCES, SECTION 8-102, BY REZONING CERTAIN LANDS FROM NEIGHBORHOOD OFFICE (N-O) TO COMMERCIAL (C)**

**⊗ There was a motion to suspend the rules, place on third and final reading by title only.**

**Motion:** Councilman Darrin Brock

**Second:** Councilman Jerry Foley

**Vote Aye:** Allred, Harmon, Lathem, Schein, Williams, Brock, LeMons, and Foley.

**Vote Nay:** None.

**The motion carried and the ordinance was read by title only by Mayor Long.**

**⊗ There was a motion to approve the ordinance as read.**

**Motion:** Councilman Darrin Brock

**Second:** Councilman Eric Schein

**Vote Aye:** LeMons, Foley, Schein, Brock, Williams, Harmon, Lathem, and Allred.

**Vote Nay:** None.

**The motion carried, the Ordinance was approved and assigned Ordinance No. 796.**

**d. APPROVAL TO FILL POSITION OF ADMINISTRATIVE ASSISTANT, NOT BUDGETED BUT NO ADDITIONAL FUNDS REQUIRED**

The Mayor said this person would report to him. They are behind with work and need someone to assist in administration. The position will be advertised in the newspaper. The salary has not been determined and will be based on experience.

**⊗ There was a motion to approve filling the position as requested.**

**Motion:** Councilman Keith Williams

**Second:** Councilwoman Marty Lathem

**Vote Aye:** Foley, Lathem, Brock, Allred, LeMons, Williams, and Schein.

**Vote Nay:** Harmon.

**The motion carried.**

**e. AN ORDINANCE PRESCRIBING THE POWERS AND DUTIES OF THE CITY CLERK-TREASURER, RESCINDING ORDINANCE NO. 443, AMENDING ORDINANCE NO. 536 AND SECTION 2-152 OF THE**

**LOWELL CODE OF ORDINANCES FOR THE CITY OF LOWELL,  
ARKANSAS**

**⊗ There was a motion to suspend the rules, place on third and final reading by title only.**

**Motion:** Councilman Keith Williams

**Second:** Councilman Darrin Brock

**Vote Aye:** Schein, LeMons, Allred, Williams, Foley, Brock, and Lathem.

**Vote Nay:** Harmon.

**The motion carried and the ordinance was read by title only by Mayor Long.**

**⊗ There was a motion to approve the ordinance as read.**

**Motion:** Councilman Darrin Brock

**Second:** Councilman Keith Williams

**Vote Aye:** Brock, Allred, Foley, LeMons, Lathem, Schein, and Williams.

**Vote Nay:** Harmon.

**The motion carried, the Ordinance was approved and assigned Ordinance No. 797.**

**11. SETTING OF COMMITTEE MEETINGS/ANNOUNCEMENTS:**

**PARK, RECREATION AND SPECIAL EVENTS COMMITTEE:** Beth Stephens of the Rogers-Lowell Chamber of Commerce made comments which could not be distinguished on the recording. Councilman Keith Williams suggested that Paula Allred be appointed to replace Shawn Ingram as a Council representative on the Parks Committee.

**⊗ There was a motion to appoint Paula Allred to the Parks Committee.**

**Motion:** Councilman Keith Williams

**Second:** Councilwoman Marty Lathem

**Vote Aye:** Lathem, Brock, Allred, Foley, Schein, LeMons, Williams, and Harmon.

**Vote Nay:** None.

**The motion carried.**

The committee will meet on Tuesday, July 31, 2007, at 6:00 pm at City Hall.

**STREETS & SIDEWALKS COMMITTEE:** No meeting scheduled.

**PERSONNEL COMMITTEE:** No meeting scheduled.

**FINANCE COMMITTEE:** No meeting scheduled.

**UTILITIES COMMITTEE:** No meeting scheduled.

**ORDINANCE COMMITTEE:** Meeting scheduled for Tuesday, August 14, 2007, at 6:00 pm in the Courtroom.

**12. ADJOURNMENT:** There being no objections, the meeting adjourned at 8:47 p.m.

**APPROVED:**

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PERRY LONG, Mayor

**ATTEST:**

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JANETTE LASATER, City Clerk